

(6) If you do nonbusiness work, it is agricultural labor if you do the work on a farm operated for a profit. A farm is not operated for profit if the employer primarily uses it as a residence or for personal or family recreation or pleasure. (See § 404.1058(a) for an explanation of nonbusiness work.)

(7) The term *farm operator* means an owner, tenant, or other person, in possession of and operating a farm.

(8) Work is not *agricultural labor* if it is done in the employ of a cooperative organization, which includes corporations, joint-stock companies, and associations treated as corporations under the Code. Any unincorporated group of operators is considered to be a cooperative organization if more than 20 operators are in the group at any time during the calendar year in which the work is done.

(9) Processing work which changes the commodity from its raw or natural state is not agricultural labor. An example of this is the extraction of juices from fruits or vegetables. However, work in the cutting and drying of fruits or vegetables does not change the commodity from its raw or natural state and can be agricultural labor.

(10) The term *commodity* means a single agricultural or horticultural product. For example, all apples are a commodity, while apples and oranges are two commodities.

(11) Work connected with the commercial canning or freezing of a commodity is not agricultural labor nor is work done after the delivery of the commodity to a terminal market for distribution for consumption.

(b) *What is a farm.* For purposes of social security coverage, *farm* includes a stock, dairy, poultry, fruit, fur-bearing animal, or truck farm, plantation, ranch, nursery, range or orchard. A farm also includes a greenhouse or other similar structure used mostly for raising agricultural or horticultural products. A greenhouse or other similar structure used mostly for other purposes such as display, storage, making wreaths and bouquets is not a farm.

[45 FR 20075, Mar. 27, 1980. Redesignated at 55 FR 7310, Mar. 1, 1990, as amended at 61 FR 38367, July 24, 1996; 70 FR 41955, July 21, 2005]

#### § 404.1057 Domestic service in the employer's home.

(a) *Payments for domestic service—(1) The applicable dollar threshold.* We do not include as wages cash payments that an employer makes to you in any calendar year for domestic service in the employer's private home if the cash pay in that calendar year is less than the applicable dollar threshold. The threshold per employer is \$1000 in calendar year 1995. In calendar years after 1995, this amount will be subject to adjustment in \$100 increments based on the formula in section 215(a)(1)(B)(i) of the Act to reflect changes in wages in the economy. Non-cash payments for domestic service are not counted as wages.

(2) *How evaluation is made.* We apply the applicable dollar threshold described in paragraph (a)(1) of this section based on when the payments are made to you rather than when the pay is earned. To count toward the applicable dollar threshold, payment must be made to you in cash (including checks or other forms of money). We apply the applicable dollar threshold only to services performed as a domestic employee. If an employer pays you for performing other work, the cash pay for the nondomestic work does not count toward the applicable dollar threshold domestic service pay required for the remuneration to count as wages.

(3) *More than one domestic employer.* The applicable dollar threshold as explained in paragraph (a)(1) of this section applies to each employer when you perform domestic services for more than one employer in a calendar year. The wages paid by more than one employer for domestic services may not be combined to decide whether you have been paid the applicable dollar threshold or more in a calendar year. The standard applies to each employee when an employer has two or more domestic employees during a calendar year.

(4) *Rounding dollar amounts for reporting.* For social security purposes, an employer has an option in the way he or she reports cash wages paid for domestic service in his or her private home. The employer may report the actual wages paid or may round the

## § 404.1058

## 20 CFR Ch. III (4–1–08 Edition)

wages to the nearest dollar. For purposes of rounding to the nearest dollar the cents are disregarded unless it amounts to one-half dollar or more, in which case it will be raised to \$1. If an employer uses this method to report a cash payment to you for domestic services in his or her private home in a calendar year, he or she must use the same method to report payments to other employees in that year for similar services.

(b) *What is domestic service.* Domestic service is work of a household nature done by you in or about a private home of the employer. A private home is a fixed place of residence of a person or family. A separate dwelling unit maintained by a person in an apartment house, hotel, or other similar establishment may be a private home. If a house is used primarily for supplying board or lodging to the public as a business enterprise, it is not a private home. In general, services of a household nature in or about a private home include services performed by cooks, waiters, butlers, housekeepers, governesses, maids, valets, baby sitters, janitors, laundresses, furnacemen, caretakers, handymen, gardeners, footmen, grooms, and chauffeurs of automobiles for family use. Pay for these services does not come under this provision unless the services are performed in or about a private home of the employer. Pay for services not of a household nature, such as services performed as a private secretary, tutor, or librarian, even though performed in the employer's home, does not come under this provision.

[45 FR 20075, Mar. 27, 1980; 45 FR 25060, Apr. 14, 1980. Redesignated at 55 FR 7310, Mar. 1, 1990, as amended at 61 FR 38367, July 24, 1996]

### § 404.1058 Special situations.

(a) *Payments for service not in course of employer's trade or business (nonbusiness work) and payments to certain home workers—(1) The \$100 standard.* We do not include as wages cash pay of less than \$100 paid to you in a calendar year by an employer for services not in the course of the employer's trade or business (nonbusiness work) and for services as a home worker as described in § 404.1008(d).

(2) *How evaluation is made.* (i) We apply the \$100 standard for a calendar year based on when the payments are made to you rather than when the pay is earned. To count toward the \$100 amount, payment must be in cash (including checks or other forms of money). The \$100 standard applies to each employer when you perform services not in the course of the employer's trade or business or as a homemaker for two or more employers.

(ii) If the employer has two or more employees, the standard applies to each employee. In applying the \$100 standard, we disregard cash payments for any other type of services you perform for the employer.

(iii) The noncash payments an employer pays you for services not in the course of the employer's trade or business are not wages even if the employer has paid you cash wages of \$100 or more in the calendar year for services of that type.

(iv) Amounts paid to you as a home worker as described in § 404.1008(d) are not wages unless you are paid \$100 or more in cash in a calendar year. If you meet this test, any noncash payments you receive for your services also count as wages.

(v) Amounts paid to you as a home worker in a common-law employment relationship (see § 404.1007) count as wages regardless of amount or whether paid in cash or kind.

(3) *Definitions.* The term *services not in the course of the employer's trade or business* (also called nonbusiness work) means services that do not promote or advance the trade or business of the employer. Services performed for a corporation do not come within this definition. A homemaker is described in § 404.1008(c).

(b) *Nonprofit, income-tax exempt organizations—(1) The \$100 standard.* We do not include as wages payments of less than \$100 in a calendar year made by an employer that is an organization exempt from income tax under section 501 of the Code.

(2) *How evaluation is made.* We apply the \$100 standard for a calendar year based on when the payments are made to you rather than when the pay is earned. To figure the \$100 amount, both